

## REMARKS

Applicant notes the allowance of Claims 41-50 and the indicated allowability of Claims 5-7, 9, 10, 15, 18, 20-22, 28, and 31.

### **The Finality of the Action:**

Applicant requests reconsideration and withdrawal of the finality of the Office Action dated January 16, 2003, because the finality of the Action is premature. At least Claims 8, 11, 27, 29, 30, 35, and 38-40 have been rejected on a new ground of rejection that is neither necessitated by Applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c).

### **The Objection to the Specification:**

The examiner has objected to the specification as not providing antecedent basis for Claim 41. Applicant has amended the written description and added new Figures 27a and 27b. Withdraw of the objection is solicited.

### **The Section 102 Rejections:**

1. Claims 3, 4, 12-14, 16, 27, 29, and 30 are rejected as anticipated by U.S. Patent No. 5,525,863 to Kowalczyk et al. ("Kowalczyk") The examiner appears to have overlooked some of the claim language distinguishing the claims from Kowalczyk, and has misinterpreted what Kowalczyk fairly discloses. Reconsideration and withdrawal of the rejections based on Kowalczyk is solicited.

Independent Claim 3 is directed to a horizontally burning HID lamp having an arc tube, and independent Claim 12 is directed to a horizontally burning HID arc tube,

wherein the arc tube includes a "canoe-shaped" lower portion. The examiner relies on Fig. 4 in Kowalczyk as disclosing an arc tube having a "canoe-shaped" lower portion. The arc tube is illustrated in longitudinal and lateral cross-section, and clearly does not disclose a "canoe-shaped" lower portion, i.e., the lower portion, while pinched on the ends, does not include a flattened bottom.

Further, Applicant has amended the specification to clarify the meaning of the term "canoe-shaped" as including arc tubes having a horizontal cross-section at the elevation of the electrodes in the shape of an oval. The arc tube disclosed by Kowalczyk is formed from a cylindrical tube having pinched end portions. Kowalczyk fails to disclose or suggest an arc tube having a "canoe-shaped" lower portion as clarified by amendment.

With respect to Claims 3 and 13, the examiner relies on Fig. 4a as disclosing an arc tube having "an upper portion longitudinally conforming generally between said electrodes to the shape of the arc drawn therebetween" as claimed. Kowalczyk at Fig. 4a discloses the longitudinal cross-section of an arc tube wherein the upper portion clearly does not conform to the shape of the arc.

With respect to Claim 4, Kowalczyk fails to disclose an arc tube having a canoe-shaped lower portion having a substantially flattened bottom. The examiner relies on Fig. 4a, however, Fig. 4c clearly illustrates the arc tube of Fig. 4a is circular in lateral cross-section.

With respect to Claim 14, the examiner relies on Fig 4a of Kowalczyk as disclosing an arc tube having a lower portion that is substantially concave in the

longitudinal direction. Fig. 4a discloses an arc tube wherein the lower portion 10a is not substantially concave in the longitudinal direction.

With respect to Claim 27, Kowalczyk discloses at Fig. 2b an arc tube having a lower portion wherein the distance Ra from the electrodes to a portion of the flattened bottom is greater than the distance R to the upper portion (column 2, lines 42-46). Kowalczyk fails to disclose an arc tube having "a circular cross-section upper portion and a lower portion with a flattened bottom, the distance from said electrodes to said flattened bottom being less than the distance from electrodes to the upper portion thereof" as recited in Claim 27.

With respect to Claims 29-30, Kowalczyk fails to disclose an arc tube wherein the circular upper portion joins the lower portion below the elevation of the electrodes as claimed.

2. Claims 17, 19, 23-25, and 32-37 are rejected as anticipated by U.S. Patent No. 4,001,623 to Howles et al. ("Howles") The examiner appears to have overlooked some of the claim language distinguishing the claims from Howles and has misinterpreted what Howles fairly discloses. Reconsideration and withdrawal of the rejections based on Howles is solicited.

Independent Claims 17, 23, and 32 each claim an arc tube having a lower portion with a "flattened" bottom. Howles discloses an arc tube having a lower portion with a semi-circular cross-section. (see Fig. 6) The examiner's assertion that Fig. 5 discloses an arc tube with a bottom section flattened in the longitudinal direction is erroneous and contrary to the meaning of the term "flattened" as used in this application. Claims 19, 24,

25, and 33-37 are patentable with the respective independent claims without resort to the additional patentable limitations recited therein.

**The section 103 Rejections:**

1. Claims 1 and 2 are rejected as obvious over Howles in view of Kowalczyk. The examiner appears to base the rejection on the erroneous assertion that Howles discloses an arc tube having a "flattened" bottom. As discussed above, and as clearly disclosed in Fig. 6, Howles discloses an arc tube having a bottom portion that is semi-circular in cross-section, and provides no disclosure or suggestion of an arc tube having a "flattened" bottom. The examiner bases the rejection on this premise, and has provided no support that such a modification to the combination of Howles and Kowalczyk would be obvious. Reconsideration and withdrawal of the rejection of Claims 1 and 2 is solicited.

2. Claims 38-40 are rejected as obvious over U.S. Patent No. 4,742,269 to Caruso et al. ("Caruso") Caruso appears to disclose a formed body arc tube, and formed body arc tubes having the relative dimensions recited in Claims 38-40 are known. The claims have been amended to specify that the arc tube includes a lower portion having a flattened bottom. The prior art neither discloses, nor makes obvious the inventions such arc tubes. Reconsideration and withdraw of the rejection of Claims 38-40 is solicited.

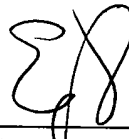

3. Claims 8 and 11 are rejected as obvious over U.S. Patent No. 4,988,917 to Cox ("Cox") in view of U.S. Patent No. 4,499,396 to Fohl et al. ("Fohl"). Claims 8 and 11 have been amended to further distinguish over the asserted combination by specifying that the arc tube is a double ended arc tube. There is no disclosure or suggestion from

either Cox or Fohl of a either a horizontal burning lamp, or of a double ended arc tube having "spaced apart electrodes tilted downwardly toward the center of said arc tube" as claimed. Reconsideration and withdrawal of the rejection of Claims 8 and 11 is solicited.

Consideration and allowance of new Claims 51-53 is solicited. No new matter has been added.

A further and favorable action and allowance of all claims is solicited.

Respectfully submitted,



---

L. Lawton Rogers, III  
Reg. No. 24,302  
D. Joseph English  
Reg. No. 42,514  
Mark C. Comtois  
Reg. No. 46,285  
Patrick D. McPherson  
Reg. No. 46,255

DUANE MORRIS LLP  
1667 K Street, N.W., Suite 700  
Washington, D.C. 20006  
Telephone No.: (202) 776-7800  
Facsimile No.: (202) 776-7801

Dated: April 16, 2003